

Appl. No. 10/736,282
Docket No. AA556C
Amdt. dated November 30, 2007
Reply to Office Action mailed on September 10, 2007
Customer No. 27752

REMARKS

Claim Status

Claims 1-18 are pending in the present application. No additional claims fee is believed to be due.

Claim 16 has been amended to include the feature of strengthening the edges. Support for this amendment is found at page 8, lines 28-34 of the specification.

Rejection Under 35 USC §103(a) Over Nakahata in view of Malowaniec

Claims 1-18 have been rejected under 35 USC §103(a) as being unpatentable over U.S. Pat. No. 5,873,868 to Nakahata, et al. (hereinafter "Nakahata") in view of U.S. Pat. No. 6,049,915 to Malowaniec (hereinafter Malowaniec). Applicants respectfully traverse the rejection.

The Office Action states that Nakahata teaches an extensibility controlling means in the form of an elastically extensible chassis layer 22 to control the extensibility of the **topsheet** 24, wherein the extensibility controlling means inhibits the **topsheet** layer 24 from extending beyond extensibility causing breakage of said **topsheet**. (The Office Action, page 3) (emphasis added).

Claim 1 recites, *inter alia*, an extensibility controlling means to control the extensibility of the **chassis layer**, wherein the extensibility controlling means inhibits the **chassis layer** from extending beyond extensibility causing breakage of the **chassis layer**. Therefore, even assuming, *arguendo*, that the Office's assertion is correct, Applicants submit that the Office Action still has not shown that that Nakahata teaches an extensibility controlling means, as is recited in claim 1 of the present application. For further clarification on the extensibility controlling means recited in claim 1, please see page 11, line 26-page 12, line 40 and Figs. 4 and 5 of the present application.

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The Office Action also states "the article of Malowaniec meets the claim limitations that pertain to the discontinuities and to the extensibility controlling means (layer 11 of Malowaniec)." (The Office Action page 3-page 4). As best understood by Applicants, the Office Action is asserting that "Malowaniec teaches an absorbent article having an absorbent core in the form of elastic layer 11 disposed between topsheet 13, and a chassis layer 12." (*Id.*). However, Applicants are unable to find any teaching or suggestion in Malowaniec of the absorbent core of Malowaniec acting as extensibility controlling means, as is recited in claim 1 of the present application.

With regard to claim 2, the Office Action states "[t]he extensibility causing breakage of the chassis layer is between 10-500%, which overlaps the range of more than 20% (Col. 14, lines 10-12)." (The Office Action, page 4). Turning to the portion of Nakahata cited by the Office Action, Nakahata discloses in claim 8, "[a]n absorbent article . . . wherein the **topsheet** has an elastic extensibility of from about 10% to about 500%." (Nakahata, col. 14, lines 10-12)

As pointed out in Applicants' Appeal Brief, filed June 15, 2007, the Office has provided no evidence or reasoning to support an assertion that the topsheet of Nakahata is equivalent to the chassis layer recited in claim 1 of the present application. (See Applicants' Appeal Brief dated June 15, 2007, pages 3-6). Therefore, Applicants submit that Nakahata does not teach or suggest a disposable absorbent article, wherein the extensibility causing breakage of the chassis layer is more than 20 %, as recited in claim 2 of the present application.

With regard to claim 3, Applicants would like to point out that claim 3 recites, *inter alia*, the extensibility controlling means inhibits the **chassis layer** from extending beyond 20 % at tension force of 125 grams/25mm. The Office Action asserts that Nakahata teaches the same materials for topsheet 24 as those set forth in the claimed disclosure and as a result, Nakahata inherently teaches the elements recited in claim 3 of the present application. Even assuming, *arguendo*, that Nakahata discloses the same

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topsheet materials as those disclosed in the present application, there is still no teaching of the extensibility controlling means recited in claim 3.

With regard to claims 4-6, it is Applicants' position that Nakahata does not teach or suggest and extensibility controlling means as is recited in claims 4-6. (See Appeal Brief dated June 15, 2007, pages 6-7; and remarks above). The Office Action does not cite any portion of Malowaniec to overcome the lack of teaching or suggestion of Nakahata. Therefore, the rejection of claims 4-6 under 35 U.S.C. §103(a) should be withdrawn.

With regard to claim 8, the Office Action states "[t]he absorbent article comprises a liquid impervious sheet disposed between the absorbent core and the chassis layer" (The Office Action, page 5). As best understood by Applicants, Nakahata discloses that the absorbent core **is part of** the chassis layer. (See Nakahata, col. 3, lines 32-35). Thus, Applicants are unclear as to how Nakahata can teach or suggest a liquid impervious sheet disposed between the absorbent core and the chassis layer, when one is a part of the other. If, on the other hand, the Office Action is asserting that Nakahata teaches a liquid impervious sheet disposed between the absorbent core and the backsheet, then Applicants respectfully disagree with the Office's reading of Nakahata as Applicants are unable to find any teaching or suggestion in Nakahata to support such an assertion.

With regard to claim 16, the Office Action supports the rejection by pointing out that the topsheet of Nakahata is treated to be hydrophobic. (The Office Action, page 7). However, claim 1, from which claim 16 depends, recites, *inter alia*, that the discontinuities are included in the chassis layer and not the topsheet. Therefore, it is Applicants position that the Office Action has not properly made a *prima facie* case of obviousness with regard to claim 16. In addition, claim 16 has been amended to include the feature of strengthening the edges of the discontinuities, which feature Applicants are unable to find in either Nakahata or Malowaniec.

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In light of the above remarks, it is Applicants' position that the combination of the Nakahata and Malowaniec does not teach or suggest each and every element recited in claim 1 of the present application or any claim depending therefrom. Accordingly, Applicants respectfully request that the rejection of claims 1-18 under 35 U.S.C. §103(a) be withdrawn.

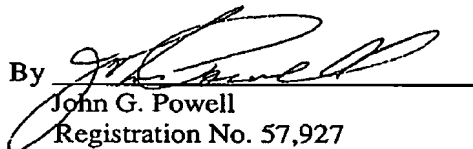
Conclusion

This response represents an earnest effort to place the present application in proper form and to distinguish the invention as claimed from the applied reference(s). In view of the foregoing, entry of the amendment(s) presented herein, reconsideration of this application, and allowance of the pending claim(s) are respectfully requested.

Respectfully submitted,

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